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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/611,259

06/30/2003

James Harold Gray

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SUITE 2800

ATLANTA, GA 30309

EXAMINER

SALCE, JASON P

ART UNIT

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/611,259	<b>Applicant(s)</b> GRAY ET AL.	
	<b>Examiner</b> Jason P. Salce	<b>Art Unit</b> 2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 11-20, 41-50 and 69-78 is/are pending in the application.
- 4a) Of the above claim(s) 1-10, 21-40, 51-68 and 79-86 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11-20, 41-50 and 69-78 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____.                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>12/19/2007</u> .  | 6) <input type="checkbox"/> Other: ____.                          |

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election without traverse of claims 1-10, 21-39, 51-68 and 79-86 in the reply filed on 4/7/2008 is acknowledged.

This application contains claims 1-10, 21-39, 51-68 and 79-86 drawn to an invention nonelected without traverse in the reply filed on 4/7/2008. A complete reply to this rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

### ***Information Disclosure Statement***

The information disclosure statement (IDS) submitted on 12/19/2007 was filed after the mailing date of the Restriction Requirement on 7/23/2007. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 11-13, 15-17, 40, 42-43, 45-47, 69-71 and 73-75 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Watts et al. (U.S. Patent No. 6,324,694).

Referring to claim 11, Watts discloses determining whether to supply alternate content to one or more users of an interactive television service (**see Column 4, Lines 34-46 for determining to transmit alternate/subsidiary data prior to transmission of the television program (*primary content*)**), the alternate content to be cached on a terminal device located at a premises of the one or more users (**see Column 4, Lines 62-65 storing the alternate/subsidiary data**).

Watts also discloses that responsive to determining to supply alternate content to one or more users to an interactive television service (**see above**), sending the alternate content to the terminal device located at the premises of the one or more users (**see again Column 4, Lines 34-46 and Lines 62-65**).

Watts also discloses generating a hot key signal indicating availability of the alternate content and inserting the hot key signal into a content signal transmitted to the one or more users from an interactive television service provider (**see Column 7, Lines 30-44 for adding a tag/hot key signal to the transmitted television program in order for the tag to be matched with the proper alternate/subsidiary data for display with the transmitted television program**) via a network with which the one or more users and the interactive television service provider are connected (**see Column 10, Lines 52-67**).

Referring to claim 12, Watts also discloses determining whether to supply alternate content to one or more users of an interactive television service is based on information supplied by a content provider (**see again Column 7, Lines 30-44 for**

**transmitting a tag that is used determine what alternate content to obtain and present).**

Referring to claim 13, Watts also discloses that determining whether to supply alternate content to one or more users of an interactive television service is based on information generated by the interactive television service provider (**see the rejection of claim 12**).

Referring to claim 15, Watts discloses that the alternate content is related to content currently being viewed (**see Column 4, Lines 24-27**).

Referring to claims 16-17, Watts discloses that the network comprises either a cable network or a satellite network (**see Column 10, Lines 52-67**).

Referring to claims 40, 42-43 and 45-47, see the rejection of claims 11-13 and 15-17, respectively.

Referring to claims 69-71 and 73-75, see the rejection of claims 11-13 and 15-17, respectively.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 18-20, 41, 48-50 and 76-78 are rejected under 35 U.S.C. 103(a) as being unpatentable over Watts et al. (U.S. Patent No. 6,324,694).

Referring to claims 18-20, Watts discloses all of the limitations of claim 11, but fails to teach the use of a FTTC, FTTH and VDSL network.

The examiner takes Official Notice to use of a FTTC, FTTH and VDSL network for distributing interactive television services.

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the distribution networks, as taught by Watts, using a FTTC, FTTH or VDSL network, as taught by the examiner's Official Notice, for the purpose of providing a faster and more reliable network distribution system for distribution interactive television services.

Referring to claims 48-50, see the rejection of claims 18-20, respectively.

Referring to claims 76-78, see the rejection of claims 18-20, respectively.

Referring to claim 41, Watts discloses all of the limitations of claim 40, as well as combining the alternate/subsidiary data with the television program/primary content and transmitting the data together, but fails to teach using a multiplexing technique to combine the data together prior to transmission.

The examiner takes Official Notice to the use of multiplexing in order to combine multiple pieces of data together for transmission through a 6 MHz television channel.

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the transmission system, as taught by Watts, to include a multiplexer, as taught by the examiner's Official Notice, for the purpose of allowing more data to be transmitted over a television distribution network.

Claims 14, 44 and 72 are rejected under 35 U.S.C. 103(a) as being unpatentable over Watts et al. (U.S. Patent No. 6,324,694) in view of Pack et al. (U.S. Patent No. 7,337,457).

Referring to claim 14, Watts discloses all of the limitations in claim 11, but fails to teach that the hot key signal comprises an IP data packet, the IP data packet having a header portion and a body portion, the body portion having a data field indicating a URL where the alternate content is located.

Pack discloses a similar system to Watts where a viewer can watch a television program and respond to alternate content displayed to the user during the viewing of the television program (**see Abstract**). Pack also discloses that the hot key signal comprises an IP data packet, the IP data packet having a header portion and a body portion, the body portion having a data field indicating a URL where the alternate content is located (**see Column 5, Line 43 through Column 8, Line 59**).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the hot key signal, as taught by Watts, to include

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TCP/IP encapsulated URL data, as taught by Pack, for the purpose of allowing a viewer to obtain shopping information for a desirable product which was displayed in program presentation without causing an interruption in the viewing of a television program (**see Column 2, Lines 32-37 of Watts**).

Referring to claims 44 and 72, see the rejection of claim 14.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason P. Salce whose telephone number is (571) 272-7301. The examiner can normally be reached on M-F 9am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jason P Salce/  
Primary Examiner, Art Unit 2623

Jason P Salce  
Primary Examiner  
Art Unit 2623

June 11, 2008